

Message Text

UNCLASSIFIED

PAGE 01 GENEVA 06818 01 OF 02 041800Z

42

ACTION IO-10

INFO OCT-01 ISO-00 L-03 H-02 NSC-05 PM-04 CIAE-00 DODE-00

INR-07 NSAE-00 PA-02 USIA-15 PRS-01 SP-02 AF-06

ARA-10 EA-09 EUR-12 NEA-10 FBIE-00 JUSE-00 DHA-02

SS-15 OIC-02 /118 W

----- 095661

R 041626Z SEP 75

FM USMISSION GENEVA

TO SECSTATE WASHDC 5610

INFO USUN NEW YORK 2320

UNCLAS SECTION 1 OF 2 GENEVA 6818

E.O. 11652: N/A

TAGS: OCON, UN, PFOR, SHUM

SUBJ: 5TH UN CONGRESS ON THE PREVENTION OF CRIME AND THE
TREATMENT OF OFFENDERS: WORKING GROUP ON TORTURE

REF: GENEVA 6780

1. DUTCH-SWEDISH DRAFT DECLARATION ON TORTURE WAS
SUBSTANTIALLY REDRAFTED BY SMALL DRAFTING GROUP
SEPT. 3. TEXT FOLLOWS AT END OF THIS MESSAGE.

2. US SUGGESTION THAT DEFINITION OF TORTURE
CONTAINED IN DRAFT DECLARATION BE MADE ILLUSTRATIVE
RATHER THAN LIMITING WAS ADOPTED, ALONG WITH SOME
OTHER TEXTUAL EMENDATIONS. DRAFTING GROUP DID NOT,
HOWEVER, AGREE TO US SUGGESTION THAT CONGRESS REFER
DRAFT TEXT TO GENERAL ASSEMBLY AS A BASIS FOR DECLARA-
TION, THEREBY AVOIDING ENDORSEMENT OF SPECIFIC TEXT.
DRAFTING GROUP REPORTED TO WORKING GROUP DESCRIBED
REFTEL, WHICH THEN ACCEPTED DRAFTING GROUP'S RECOMMEN-
DATION THAT SPECIFIC TEXT BE REFERRED TO GENERAL
ASSEMBLY FOR ADOPTION (PREAMBULAR PARA 4). TEXT
BEING CIRCULATED SEPT. 3 AND WILL BE SUBJECT OF DIS-
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 GENEVA 06818 01 OF 02 041800Z

CUSSION IN SECTION IV, SEPT. 8 AND 9.

3. US DEL BELIEVES THAT TEXT AS IT STANDS IS BASICALLY SATISFACTORY AND PLANS TO JOIN WESTERN EUROPEAN, AUSTRALIAN AND OTHER DELEGATION IN SUPPORTING IT AS SOUND PRACTICAL WAY TO KEEP INTERNATIONAL ATTENTION FOCUSSED ON TORTURE PROBLEM, EVEN THOUGH IT IS NOT DIRECTLY RESPONSIVE TO GA 3218 (XXIX). QUESTION AT THE MOMENT IS HOW EASTERN EUROPEAN AND THIRD WORLD COUNTRIES WILL REACT. SOME SPECULATION THERE MAY BE SUBSTANTIAL OPPOSITION FROM THOSE SOURCES, BUT SO FAR NO HARD FACTS.

4. IN LIGHT OF PRACTICALLY COMPLETE OPPOSITION AMONG WEO'S TO ANY MOVE TO AMEND STANDARD MINIMUM RULES, US DEL DOES NOT RPT NOT PLAN TO INTRODUCE PROPOSED RESOLUTIONS CONTAINED IN STATE 192910.

BEGIN TEXT:

REPORT OF INTERSESSIONAL WORKING
GROUP FORMED BY FIFTH UNITED
NATIONS CONGRESS STEERING COMMITTEE
TO DEAL WITH GENERAL ASSEMBLY
RESOLUTION 3218 (XXIX)

THE INTERSESSIONAL WORKING GROUP MET ON THE SECOND OF SEPTEMBER 1975, WELCOMED, ON BEHALF OF THE STEERING COMMITTEE BY MRS. I. ANTILLA, PRESIDENT OF THE FIFTH CONGRESS AND BY MR. G.O.W. MUELLER, EXECUTIVE SECRETARY.

AFTER INTRODUCTORY REMARKS BY THE DELEGATES FROM THE NETHERLANDS AND SWEDEN, THERE WAS GENERAL DISCUSSION OF THE BEST WAY FOR THE FIFTH CONGRESS TO COMPLY WITH GENERAL ASSEMBLY RESOLUTION 3218 (XXIX) ON TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENT IN RELATION TO DETENTION AND IMPRISONMENT. THERE WAS GENERAL AGREEMENT WITH THE PRINCIPLES EXPRESSED IN THE SWEDISH AND DUTCH PROPOSAL.

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 GENEVA 06818 01 OF 02 041800Z

ALTHOUGH THE WORKING GROUP ALSO DISCUSSED THE CREATION OF A CODE OF POLICE ETHICS AND AMENDMENTS TO THE STANDARD MINIMUM RULES, IT WAS DECIDED TO CONCENTRATE ITS EFFORTS ON DRAFTING A PROPOSED DECLARATION ON TORTURE FOR SUBMISSION TO SECTIONS III AND IV OF THE FIFTH CONGRESS.

THE INTERSESSIONAL WORKING GROUP DEBATED ITS PROVISIONS AND

AGREED UPON THE PROPOSED DECLARATION THAT FOLLOWS.

THE FIFTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME
AND THE TREATMENT OF OFFENDERS,

SUPPORTING THE REJECTION BY THE GENERAL ASSEMBLY, IN ITS
RESOLUTIONS 3059(XXVIII) OF 2 NOVEMBER 1973 AND 3218(XXIX)
OF 6 NOVEMBER 1974, OF TORTURE AND OTHER CRUEL, INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT,

SHARING THE CONVICTION OF THE GENERAL ASSEMBLY THAT,
BECAUSE OF THE INCREASE IN THE NUMBER OF ALARMING REPORTS
THAT TORTURE IS BEING PRACTISED IN MANY COUNTRIES OF THE
WORLD, FURTHER AND SUSTAINED EFFORTS ARE NECESSARY TO
PROTECT UNDER ALL CIRCUMSTANCES THE BASIC HUMAN RIGHT NOT
TO BE SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT,

NOTING THE DECISION OF THE GENERAL ASSEMBLY TO CONSIDER
AT ITS THIRTIETH SESSION THE QUESTION OF TORTURE AND
OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
IN RELATION TO DETENTION AND IMPRISONMENT,

RECOMMENDS THAT THE GENERAL ASSEMBLY ADOPT THE FOLLOWING
DECLARATION ON THE PROTECTION OF ALL PERSONS FROM BEING
SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT:

THE GENERAL ASSEMBLY,
CONSIDERING THAT, IN ACCORDANCE WITH THE PRINCIPLES PROCLAIMED
IN THE CHARTER OF THE UNITED NATIONS, RECOGNITION OF THE INHERENT
DIGNITY AND OF THE EQUAL AND INALIENABLE RIGHTS OF ALL MEMBERS
OF THE HUMAN FAMILY IS THE FOUNDATION OF FREEDOM, JUSTICE AND
UNCLASSIFIED

UNCLASSIFIED

PAGE 04 GENEVA 06818 01 OF 02 041800Z

PEACE IN THE WORLD,

CONSIDERING THAT THESE RIGHTS DERIVE FROM THE INHERENT DIGNITY
OF THE HUMAN PERSON,

CONSIDERING ALSO THE OBLIGATION OF STATES UNDER THE CHARTER OF
THE UNITED NATIONS TO PROMOTE UNIVERSAL RESPECT FOR, AND OBSERVANCE
OF, HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,

HAVING REGARD TO ARTICLE 5 OF THE UNIVERSAL DECLARATION OF HUMAN
RIGHTS AND ARTICLE 7 OF THE INTERNATIONAL COVENANT ON CIVIL
AND POLITICAL RIGHTS, BOTH OF WHICH PROVIDE THAT NO ONE MAY BE
SUBJECTED TO TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT,

ADOPTS THIS DECLARATION ON THE PROTECTION OF ALL PERSONS FROM
BEING SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT AS A GUIDELINE FOR ALL STATES AND OTHER
ENTITIES EXERCISING EFFECTIVE POWER.

UNCLASSIFIED

NNN

UNCLASSIFIED

PAGE 01 GENEVA 06818 02 OF 02 041818Z

40

ACTION IO-10

INFO OCT-01 ISO-00 L-03 H-02 NSC-05 PM-04 CIAE-00 DODE-00

INR-07 NSAE-00 PA-02 USIA-15 PRS-01 SP-02 AF-06

ARA-10 EA-09 EUR-12 NEA-10 FBIE-00 JUSE-00 DHA-02

SS-15 OIC-02 /118 W

----- 095873

R 041626Z SEP 75

FM USMISSION GENEVA

TO SECSTATE WASHDC 5611

INFO USUN NEW YORK 2321

UNCLAS SECTION 2 OF 2 GENEVA 6818

ARTICLE 1

FOR THE PURPOSE OF THIS DECLARATION, TORTURE MEANS ANY ACT
BY WHICH SEVERE PAIN OR SUFFERING, WHETHER PHYSICAL OR MENTAL,
IS INTENTIONALLY INFLICTED ON A PERSON, FOR SUCH PURPOSES AS
OBTAINING FROM HIM OR A THIRD PERSON INFORMATION OR CONFESSION,
PUNISHING HIM FOR AN ACT HE HAS COMMITTED OR IS SUSPECTED OF
HAVING COMMITTED, OR INTIMIDATING
HIM OR OTHER PERSONS. IT CONSTITUTES AN AGGRAVATED AND DELIBERATE
FORM OF CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

ARTICLE 2

ANY ACT OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT IS AN OFFENCE TO HUMAN DIGNITY AND SHALL BE CONDEMNED
AS A BREACH OF THE PRINCIPLES OF THE CHARTER OF THE UNITED NATIONS
AND AS A VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS PRO-
CLAIMED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS.

ARTICLE 3

NO STATE MAY PERMIT OR TOLERATE TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT. EXCEPTIONAL CIRCUMSTANCES
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 GENEVA 06818 02 OF 02 041818Z

SUCH AS A STATE OF WAR OR A THREAT OF WAR, INTERNAL POLITICAL INSTABILITY OR ANY OTHER PUBLIC EMERGENCY MAY NOT BE INVOKED AS A JUSTIFICATION OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

ARTICLE 4

EACH STATE SHALL, IN ACCORDANCE WITH THE PROVISIONS OF THIS DECLARATION, TAKE EFFECTIVE MEASURES TO PREVENT TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT FROM BEING PRACTICED WITHIN ITS JURISDICTION.

ARTICLE 5

THE TRAINING OF THE POLICE AND RELATED LAW ENFORCEMENT PERSONNEL AND OF OTHER PUBLIC OFFICIALS WHO MAY BE RESPONSIBLE FOR PERSONS DEPRIVED OF THEIR LIBERTY SHALL ENSURE THAT FULL ACCOUNT IS TAKEN OF THE PROHIBITION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT. THIS PROHIBITION SHALL ALSO, WHERE APPROPRIATE, BE INCLUDED IN SUCH GENERAL RULES OR INSTRUCTIONS AS ARE ISSUED IN REGARD TO THE DUTIES AND FUNCTIONS OF ANYONE WHO MAY BE INVOLVED IN THE CUSTODY OR TREATMENT OF SUCH PERSONS.

ARTICLE 6

EACH STATE SHALL KEEP UNDER SYSTEMATIC REVIEW INTERROGATION METHODS AND ARRANGEMENTS FOR THE CUSTODY AND TREATMENT OF PERSONS DEPRIVED OF THEIR LIBERTY IN ITS TERRITORY, WITH A VIEW TO PREVENTING ANY CASES OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

ARTICLE 7.

EACH STATE SHALL ENSURE THAT ALL ACTS OF TORTURE AS DEFINED IN ARTICLE 1 ARE OFFENCES UNDER ITS CRIMINAL LAW. THE SAME SHALL APPLY IN REGARD TO ACTS WHICH CONSTITUTE PARTICIPATION IN, COMPLICITY IN, INCITEMENT TO OR AN ATTEMPT TO COMMIT TORTURE.

ARTICLE 8

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 GENEVA 06818 02 OF 02 041818Z

ANY PERSON WHO ALLEGES HE HAS BEEN SUBJECTED TO TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT BY OR AT THE INSTIGATION OF A PUBLIC OFFICIAL SHALL HAVE THE RIGHT TO TO HAVE HIS CASE IMPARTIALLY EXAMINED BY THE COMPETENT AUTHORITIES OF THE STATE

CONCERNED.

ARTICLE 9

WHEREVER THERE IS REASONABLE GROUND TO BELIEVE THAT AN ACT OF TORTURE AS DEFINED IN ARTICLE 1 HAS BEEN COMMITTED, THE COMPETENT AUTHORITIES OF THE STATE CONCERNED SHALL PROMPTLY PROCEED TO AN IMPARTIAL INVESTIGATION EVEN IF THERE HAS BEEN NO FORMAL COMPLAINT.

ARTICLE 10

IF AN INVESTIGATION UNDER ARTICLE 8 OR ARTICLE 9 ESTABLISHES THAT AN ACT OF TORTURE AS DEFINED IN ARTICLE 1 APPEARS TO HAVE BEEN COMMITTED, CRIMINAL PROCEEDINGS SHALL BE INSTITUTED AGAINST THE ALLEGED OFFENDER OR OFFENDERS IN ACCORDANCE WITH NATIONAL LAW. IF AN ALLEGATION OF OTHER FORMS OF CRUEL, INHUMAN OR DEGRADING TREATMENT

OR PUNISHMENT IS CONSIDERED TO BE WELL-FOUNDED, THE ALLEGED OFFENDER OR OFFENDERS SHALL BE SUBJECT TO CRIMINAL, DISCIPLINARY OR OTHER APPROPRIATE PROCEEDINGS.

ARTICLE 11

WHERE IT IS PROVED THAT AN ACT OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT HAS BEEN COMMITTED, THE VICTIM SHALL BE AFFORDED REDRESS AND COMPENSATION, IN ACCORDANCE WITH NATIONAL LAW.

ARTICLE 12

ANY STATEMENT WHICH IS ESTABLISHED TO HAVE BEEN MADE AS A RESULT OF TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT MAY NOT BE INVOKED AS EVIDENCE AGAINST THE PERSON CONCERNED IN ANY PROCEEDINGS.

UNCLASSIFIED

UNCLASSIFIED

PAGE 04 GENEVA 06818 02 OF 02 041818Z

ARTICLE 13

ALL STATES SHALL ENDEAVOUR TO IMPLEMENT THIS DECLARATION AS SOON AS FEASIBLE. ALL APPROPRIATE INTERNATIONAL GOVERNMENTAL

ORGANIZATIONS ARE REQUESTED TO CO-OPERATE IN THE IMPLEMENTATION
OF THESE STANDARDS IN ACCORDANCE WITH INTERNATIONAL LAW AND
PRACTICE. END TEXTABRAMS

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CRIME PREVENTION, COMMITTEE MEETINGS, PRISONERS WELFARE
Control Number: n/a
Copy: SINGLE
Draft Date: 04 SEP 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975GENEVA06818
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750306-0180
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750985/aaaacxbh.tel
Line Count: 334
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION IO
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 75 GENEVA 6780
Review Action: RELEASED, APPROVED
Review Authority: RowellE0
Review Comment: n/a
Review Content Flags:
Review Date: 25 MAR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <25 MAR 2003 by MaustMC>; APPROVED <15 JAN 2004 by RowellE0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: 5TH UN CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS: WORKING GROUP ON TORTURE
TAGS: OCON, PFOR, SHUM, UN
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006